

STATE OF MONTANA VENDOR CONTRACT

Department of Administration
State Procurement Bureau
165 Mitchell Building
PO Box 200135
Helena, MT 59620-0135
Phone: (406) 444-2575 Fax: (406) 444-2529
TTY Users-Dial 711
<http://gsd.mt.gov>

V.C. #: DOA09-1653L

Title: Teachers' Retirement System of Montana – Actuarial Services

CONTRACT TERM	FROM	July 1, 2009	CONTRACT STATUS	NEW (x)
	TO	June 30, 2012		RENEW ()
VENDOR ADDRESS	Cavanaugh Macdonald Consulting, LLC 3550 Busbee Parkway, Suite 250 Kennesaw, GA 30144		ORDER ADDRESS	Same
ATTN:	Ed Macdonald, President		ATTN:	Same
PHONE:	678-388-1700		PHONE:	Same
FAX:	678-388-1730		FAX:	Same
E-MAIL:	EdM@CavMacConsulting.com		E-MAIL:	Same

PRICES: Per Contract


DELIVERY: Per Contract

F.O.B.: Per Contract

TERMS: Per Contract

REMARKS:

RFP09-1653L


Jill Lotter, Contracts Officer

Date: 7/1/09

AUTHORIZED SIGNATURE

**TEACHERS' RETIREMENT SYSTEM OF THE STATE OF MONTANA – ACTUARIAL
SERVICES
DOA09-1653L**

1. PARTIES

THIS CONTRACT is entered into by and between the State of Montana, **Teachers' Retirement System of the State of Montana**, (hereinafter referred to as "TRS" or "the State"), whose address and phone number are 1500 E Sixth Avenue, P.O. Box 200131, Helena, MT 59620-0131, (406) 444-3134 and Cavanaugh Macdonald Consulting, LLC, (hereinafter referred to as the "Contractor"), whose address and phone number are 3550 Busbee Parkway, Suite 250, Kennesaw, GA 30144 and (678) 388-1700. Hereinafter, TRS and Contractor may be referred to jointly as "the Parties."

THE PARTIES AGREE AS FOLLOWS:

2. EFFECTIVE DATE, DURATION, AND RENEWAL

2.1 Contract Term. The initial term of this contract is three (3) years, beginning July 1, 2009, (or upon contract execution) and terminate on June 30, 2012, unless terminated earlier in accordance with the terms of this contract. (Section 18-4-313, MCA)

2.2 Contract Renewal. This contract may, upon mutual agreement between the parties and according to the terms of the existing contract, be renewed for any interval advantageous to the State. Per the State of Montana's Procurement Act (Chapter 18-4, MCA), the term of this contract, including renewals, is limited to 7 years total (Section 18-4-313, MCA). TRS may, at their discretion, enter into a separate contract exercising the Procurement Act exemption for actuarial services (Section 18-4-132, MCA).

3. COST/PRICE ADJUSTMENTS

Cost Increase by Mutual Agreement. After the initial three (3) year term of the contract, each renewal term may be subject to a cost increase by mutual agreement.

4. SERVICES AND/OR SUPPLIES

4.1 Contractor to provide services in conformity with RFP. Contractor agrees to provide to the State the Actuary Services as defined in RFP09-1653L, as amended, identifying the requirements necessary to meet the services, specifications, and timelines defined in Section 3, Scope of Project and the related requirements identified in Section 4.

4.2 Contractor agrees to provide Reports to specifications of the State. The Contractor will provide actuarial valuation reports in the format and including the summary of findings specified by the State, as may be revised from time to time.

5. CONSIDERATION/PAYMENT

5.1 Fixed Rate Projects and Travel. In consideration for the actuarial services to be provided, the State shall pay for the following fixed rate projects and travel according to the following fee schedules. Fixed costs for services include all costs

associated with the project, all related services, and preparation of the required reports an/or other documentation. The fixed cost includes all ancillary costs including, but not limited to: telephone, fax copying, and administrative staff costs. Fixed costs for travel include all travel costs including but not limited to: airfare, accommodations; ground transportation; per diem; and personnel costs.

5.1.1 Projects

1. FY 2009 Actuarial Valuation	\$41,000.00
2. FY 2010 Actuarial Valuation	\$41,000.00
3. FY 2011 Actuarial Valuation	\$41,000.00
4. Experience Study to be completed by May 1, 2010	\$35,000.00
5. Valuation of ORP Supplementation Contribution Rate to be completed by October 1, 2010	\$ 8,000.00

5.1.2 Travel

1. To present FY 2009 Actuarial Valuation	\$ 990.00
2. To present FY 2010 Actuarial Valuation and Valuation of ORP supplemental contribution Rate	\$ 990.00
3. To present FY 2011 Actuarial Valuation	\$ 990.00
4. To present Experience Study as of May 1, 2010	\$ 990.00

5.2 Ad Hoc Projects/Services and Travel. In consideration for the actuarial services to be provided, the State shall pay for ad hoc projects and services (projects and services other than those identified in 5.1), including related travel costs if approved in advance by the State, according to the following fee schedules:

5.2.1 Hourly Rate for Professional Services (Not in travel status)

1. Primary Actuary	\$ 360.00
2. Consulting Actuary	\$ 296.00
3. Actuarial Analysts	\$ 236.00

5.2.2 Travel Costs

1. Airfare, lodging, and car rental will be reimbursed at the actual cost incurred by the Contractor.
2. Personnel costs will be paid at the hourly rate for the personnel categories identified in 5.2.1. Personnel costs will be paid by the State only for the period of time that an actuary is making a presentation or directly working on behalf of the State. Personnel costs will not be paid by the State for any period of time during which the actuary is traveling or in a travel status but not directly working on behalf of the State.

5.3 Ad Hoc Projects/Services on a Fixed Rate Basis. In lieu of payment for ad hoc projects and services on an hourly rate basis, the parties may mutually agree to a fixed rate fee for specific ad hoc projects and/or services, which projects/services may include consideration for travel costs related to the project/service.

5.4 Payment Schedule/Invoice Requirements. The State will pay for fixed rate projects as defined in 5.1 upon completion of the project, including delivery of any report or other final product, and submission of an invoice. The State will pay for work performed on ad hoc projects and service requests as defined in 5.2 and 5.3, including related travel, as work is performed as evidenced by submission of an invoice. The Contractor will submit monthly invoices for work performed, which will include: a description of the service requests completed; the discreet services provided in completion of each service request; the job title of the staff member providing each discreet service; for ad hoc services, the rate charged for each discreet service; and a total cost for each service request for the invoice period.

5.5 Cost Control/Travel. The Contractor will make all reasonable efforts to minimize the costs to the State for the provision of services under this contract. In all cases, instances of travel under this contract are deemed to require the attendance of the primary actuary/primary contact. Unless specifically requested or approved in writing by the State, travel by additional Contractor staff will be at the Contractor's expense.

5.6 Withholding of Payment. The State may withhold payments to the Contractor if the Contractor has not performed in accordance with this contract. Such withholding cannot be greater than the additional costs to the State caused by the lack of performance.

6. ACCESS AND RETENTION OF RECORDS

6.1 Access to Records. The Contractor agrees to provide the State, the Legislative Auditor, or their authorized agents access to any records necessary to determine contract compliance.

6.2 Retention Period. The Contractor agrees to create and retain records supporting the Actuarial Services provided for a period of eight (8) years after either the termination date of this contract, including any renewals, or the conclusion of any claim, litigation, or exception relating to this contract taken by the State of Montana or a third party.

7. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING

The Contractor shall not assign, transfer, or subcontract any portion of this contract without the express written consent of the State. The Contractor shall be responsible to the State for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by the Contractor. No contractual relationships exist between any subcontractor and the State.

8. HOLD HARMLESS/INDEMNIFICATION

The Contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all losses, claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Contractor's employees, any political subdivision of the State, or any other third party arising out of the Contractor's negligence or willful misconduct related to services performed or

omissions of services or in any way resulting from the acts or omissions of the Contractor and/or its agents, employees, representatives, assigns, subcontractors, under this agreement.

9. REQUIRED INSURANCE

9.1 General Requirements. The Contractor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

9.2 Primary Insurance. The Contractor's insurance coverage shall be primary insurance with respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

9.3 Specific Requirements for Automobile Liability. The Contractor shall purchase and maintain coverage with split limits of \$500,000 per person (personal injury), \$1,000,000 per accident occurrence (personal injury), and \$100,000 per accident occurrence (property damage), OR combined single limits of \$1,000,000 per occurrence to cover such claims as may be caused by any act, omission, or negligence of the contractor or its officers, agents, representatives, assigns, or subcontractors.

The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for automobiles leased, hired, or borrowed by the Contractor.

9.4 Specific Requirements for Professional Liability. The Contractor shall purchase and maintain occurrence coverage with combined single limits for each wrongful act of **\$5,000,000** per occurrence and **\$10,000,000** aggregate per year to cover such claims as may be caused by any act, omission, negligence of the Contractor or its officers, agents, representatives, assigns, or subcontractors. Note: if "occurrence" coverage is unavailable or cost prohibitive, the Contractor may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of the contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three-year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

9.5 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be declared to and approved by the state agency. At the request of the agency either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its officers, officials, employees, or volunteers; or (2) at the expense of the Contractor, the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

9.6 Certificate of Insurance/Endorsements. A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required

coverages has been received by the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135. The Contractor must notify the State immediately, of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The State reserves the right to require complete copies of insurance policies at all times. If, during the term of this contract, the rating of an insurer is downgraded such that the rating is less than B+, the Contractor may be required to obtain coverage through an alternative insurer if the rating of the original insurer is downgraded to a point that indicates the insurer may be unable to meet its financial obligations to the Contractor and the State pursuant to this contract. If the Contractor is required to obtain coverage through an alternative insurer, the Contractor will be given ninety (90) days to obtain the replacement coverage; the ninety (90) day timeframe may be extended at the sole discretion of the State.

10. COMPLIANCE WITH WORKERS' COMPENSATION ACT

Contractors are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana in accordance with sections 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither the contractor nor its employees are employees of the State. This insurance/exemption must be valid for the entire term of the contract. A renewal document must be sent to the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135, upon expiration.

11. COMPLIANCE WITH LAWS

The Contractor must, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules, and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the Contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the Contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

12. INTELLECTUAL PROPERTY

All patent and other legal rights in or to inventions created in whole or in part under this contract must be available to the State for royalty-free and nonexclusive licensing. Both parties shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use, copyrightable property created under this contract.

13. PATENT AND COPYRIGHT PROTECTION

13.1 Third Party Claim. In the event of any claim by any third party against the State that the products furnished under this contract infringe upon or violate any patent or copyright, the State shall promptly notify Contractor. Contractor shall defend such claim, in the State's name or its own name, as appropriate, but at Contractor's expense.

Contractor will indemnify the State against all costs, damages and attorney's fees that accrue as a result of such claim. If the State reasonably concludes that its interests are not being properly protected, or if principles of governmental or public law are involved, it may enter any action.

13.2 Product Subject of Claim. If any product furnished is likely to or does become the subject of a claim of infringement of a patent or copyright, then Contractor may, at its option, procure for the State the right to continue using the alleged infringing product, or modify the product so that it becomes non-infringing. If none of the above options can be accomplished, or if the use of such product by the State shall be prevented by injunction, the State will determine if the Contract has been breached.

14. OWNERSHIP OF DATA

All data provided to Contractor including data that resides on contractor collection system, in accordance with this agreement, shall remain the at all times the property of the State. There shall be no charge for returning or converting data to the State.

15. OWNERSHIP/PUBLICATION OF INFORMATION

15.1 Ownership of Information and Documentation. All records transmitted to the Contractor and all data and documents produced by the Contractor related to work performed under this contract will be the property of the State. The State will retain ownership, for all purposes, of the working papers, work products, and the end products resulting from partial or full performance under this contract. Contractor will make all information and documentation concerning its activities under this contract available to the State.

15.2 Publication/Dissemination of Information and Documentation. Contractor will not use, publish or disseminate any information, conclusions, or recommendations concerning its activities under this contract to any third-party without the prior written consent of the State. Any authorized publication or dissemination of such information will be in a format and made in a manner acceptable to the State. Contractor will submit all proposals for publication or dissemination to the State at least 30 days in advance of the proposed publication or dissemination for review. The State's failure to approve publication or dissemination within 30 days will not be construed as consent.

16. CONFIDENTIALITY/PUBLIC RECORDS

16.1 Confidentiality of Business Information. All business records, documents, and data provided to the Contractor by the State will be handled and maintained by the Contractor in a confidential manner.

16.2 Confidentiality of Member Information. The Contractor will handle, maintain, and dispose of all records, documents, and data containing individually identifiable information pertaining to a member of the retirement system in a manner that ensures the confidentiality of the member information. The Contractor will not use or disclose member information except as required to perform services under this contract or as expressly authorized, in writing, by the State.

16.3 Public Records. The Contractor understands and acknowledges that any and all information, documents, conclusions, reports, or other work product provided to the State may be subject to disclosure under the public records laws of the state of Montana. Contractor will not mark such information provided to the State as

confidential, or require notice from the State prior to disclosure of any such information, except that the State agrees that it will provide only an entire report or document, not only a portion, without authorization from the Contractor.

17. CONTRACT TERMINATION

17.1 Termination for Cause. The State may, by written notice to the Contractor, terminate this contract in whole or in part at any time the Contractor fails to perform this contract. The State may, in its sole discretion, give the Contractor written notice of the Contractor's failure to perform, and a reasonable opportunity to cure the failure. The written notice must demand performance of the stated failure within a specified period of time of not less than thirty (30) days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

17.2 Reduction of Funding. The State must terminate this contract if funds are not appropriated or otherwise made available to support the State's continuation of performance of this contract in a subsequent fiscal year. § 18-4-313(4), MCA.

18. LIAISON AND SERVICE OF NOTICES

All project management and coordination on behalf of the State shall be through a single point of contact designated as the State's liaison, who will be the executive director of the retirement system. All project management and coordination on behalf of the Contractor shall be through a single point of contact, who shall be the Primary Actuary assigned to the project. All work performed pursuant to this contract shall be coordinated between the State's liaison and the Contractor's liaison.

David L. Senn, Executive Director of TRS, will be the liaison for the State.
1500 E Sixth Avenue
P.O. Box 200139
Helena, MT 59620-0139
Telephone: 406-444-3376
Fax: 406-444-2641
E-mail: dsenn@mt.gov

Edward A. Macdonald, President of Cavanaugh Macdonald, LLC, will be the Primary Actuary and the liaison for the Contractor.
3550 Busbee Parkway, Suite 250 Kennesaw, GA 30144
Telephone: 678-388-1701
Cell Phone: 678-362-4556
Fax: 678-388-1730
E-mail: EdM@CavMacConsulting.com

The Contractor and the State will jointly agree upon the Primary Actuary (liaison) to perform services under this Contract. If, for any reason, the State deems the Primary Actuary's performance unsatisfactory, the Contractor shall replace the Primary Actuary upon written or verbal request by the State. The Contractor shall replace such employee within 30 days of notification unless a different time frame is agreed upon. Failure to

provide experienced and qualified employees acceptable to the State may be cause for immediate termination of the Agreement.

19. MEETINGS

Aside from attendance at board meetings as set forth in the RFP, the Contractor is required to meet with the State's personnel, or designated representatives, to resolve technical or contractual problems that may occur during the term of the contract or to discuss the progress made by Contractor and the State in the performance of their respective obligations, at no additional cost to the State. Meetings will occur as problems arise and will be coordinated by the State. The Contractor will be given a minimum of three full working days notice of meeting date, time, and location. Face-to-face meetings are desired. However, at the Contractor's option and expense, a conference call meeting may be substituted. Consistent failure to participate in problem resolution meetings two consecutive missed or rescheduled meetings, or to make a good faith effort to resolve problems, may result in termination of the contract.

20. CONTRACTOR PERFORMANCE ASSESSMENTS

The State may do assessments of the Contractor's performance. This contract may be terminated for one or more poor performance assessments. Contractors will have the opportunity to respond to poor performance assessments. The State will make any final decision to terminate this contract based on the assessment and any related information, the Contractor's response and the severity of any negative performance assessment. The Contractor will be notified with a justification of contract termination. Performance assessments may be considered in future solicitations.

21. TRANSITION ASSISTANCE

If this contract is not renewed at the end of this term, or is terminated prior to the completion of a project, or if the work on a project is terminated, for any reason, the Contractor must provide for a reasonable period of time after the expiration or termination of this project or contract, all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this contract, except for those terms or conditions that do not reasonably apply to such transition assistance. The State shall pay the Contractor for any resources utilized in performing such transition assistance at the most current rates provided by the contract. If there are no established contract rates, then the rate shall be mutually agreed upon. If the State terminates a project or this contract for cause, then the State will be entitled to offset the cost of paying the Contractor for the additional resources the Contractor utilized in providing transition assistance with any damages the State may have otherwise accrued as a result of said termination.

22. CHOICE OF LAW AND VENUE

This contract is governed by the laws of Montana. The parties agree that any litigation concerning this bid, proposal or subsequent contract must be brought in the First Judicial

District in and for the County of Lewis and Clark, State of Montana and each party shall pay its own costs and attorney fees. (See section 18-1-401, MCA.)

23. SCOPE, AMENDMENT, AND INTERPRETATION

23.1 Contract. This contract consists of nine (9) numbered pages, any Attachments as required, RFP # 09-1653L as amended and the Contractor's RFP response as amended. In the case of dispute or ambiguity about the minimum levels of performance by the Contractor the order of precedence of document interpretation is in the same order.

23.2 Entire Agreement. These documents contain the entire agreement of the parties. Any enlargement, alteration or modification requires a written amendment signed by both parties.

24. EXECUTION

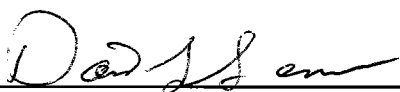
The parties through their authorized agents have executed this contract on the dates set out below.

**Teachers' Retirement System of the
State of Montana**
1500 E Sixth Avenue
P.O. Box 200139
Helena, MT 59620-0139

Cavanaugh Macdonald Consulting, LLC
3550 Busbee Parkway, Suite 250
Kennesaw, GA 30144
FEDERAL ID # 61-1489078

BY: David L. Senn, Executive Director

BY: Ed Macdonald, President



(Signature)


(Signature)

DATE: 6/30/09

DATE: 6/30/09

Approved as to Legal Content:


Denise Pizzini

Approved as to Form:


Procurement Officer
State Procurement Bureau